

**FORM TO BE USED BY A PRISONER IN FILING A  
CIVIL RIGHTS COMPLAINT**

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

Timothy J. Miller

(Enter above the full name of the plaintiff in this action)

**COMPLAINT**

v.

Civil Action No. \_\_\_\_\_

(To be supplied by the Clerk of the Court)

Trenton Police TAC TEAM  
members: Ryan Woodhead, Peter  
Grehan, Tara Stefano, Jason  
Asterbury, Brian Suschke  
Nelson Cartagena

(Enter above the full name of the defendant or defendants in this action)

**RECEIVED**

**JUN 23 2008**

AT 8:30 \_\_\_\_\_ M  
WILLIAM T. WALSH  
CLERK

**INSTRUCTIONS – READ CAREFULLY**

1. This complaint must be legibly handwritten or typewritten, signed by the plaintiff and subscribed to under penalty of perjury as being true and correct. All questions must be answered concisely in the proper space on the form. Where more space is needed to answer any question, attach a separate sheet.
2. In accordance with Rule 8 of the Federal Rules of Civil Procedure, the complaint should contain (1) a short and plain statement of the grounds upon which the court's jurisdiction depends, (2) a short plain statement of the claim showing that you are entitled to relief, and (3) a demand for judgment for the relief which you seek.
3. You must provide the full name of each defendant or defendants and where they can be found.
4. You must send the original and one copy of the complaint to the Clerk of the District Court. You must also send one additional copy of the complaint for each defendant to the Clerk. Do not send the complaint directly to the defendants.
5. Upon receipt of a fee of \$150.00, your complaint will be filed. You will be responsible for service of a separate summons and copy of the complaint on each defendant. See Rule 4, Federal Rule of Civil Procedure.

6. If you cannot prepay the \$150.00 filing fee, you may request permission to proceed in forma pauperis in accordance with the procedures set forth below. (If there is more than one plaintiff, each plaintiff must separately request permission to proceed in forma pauperis.)

The Prison Litigation Reform Act of 1996 ("PLRA"), effective April 26, 1996, has made significant changes to the in forma pauperis statute, 28 U.S.C. § 1915. The statute no longer provides for waiver of court filing fees for prisoners who are granted leave to proceed in forma pauperis. A prisoner who is granted leave to proceed in forma pauperis is not required to pay the filing fees in advance, but the prisoner is obligated to pay the entire filing fee in installment payments regardless of the outcome of the proceeding. This obligation to pay the filing fee continues even if the prisoner is transferred to another prison. Therefore, before submitting this application to the Clerk of the Court, a prisoner should consider carefully whether he or she wishes to go forward with the action.

The PLRA obligates prisoners who are granted in forma pauperis status to pay the entire filing fee in the following manner, regardless of the outcome of the litigation. 28 U.S.C. § 1915(b)(1) and (2). The agency having custody over the prisoner shall deduct from the prisoner's institutional account and forward to the Clerk of the Court (1) an initial partial filing fee equal to 20% of the greater of the average monthly deposits to the prisoner's account or the average monthly balance in the prisoner's account for the six-month period immediately preceding the filing of the complaint, and (2) payments equal to 20% of the preceding month's income credited to the prisoner's institutional account each month the amount in the account exceeds \$10.00, until the \$150.00 filing fee is paid. 28 U.S.C. § 1915(b)(1) and (2). However, a prisoner who has no assets and no means by which to pay the initial partial filing fee will not be prohibited from bringing a civil action. 28 U.S.C. § 1915(b)(4).

Each prisoner plaintiff who desires to proceed in forma pauperis must submit the following to the Clerk of the Court:

- a. a completed, signed, and dated application to proceed in forma pauperis (attached hereto); and
  - b. a certified copy of your prison account statement for the 6-month period immediately preceding submission of this application, listing the account balance and all deposits into the account. A prison account statement must be obtained from the appropriate official of each prison at which you are or were confined during the preceding 6 months.
7. If your application to proceed in forma pauperis does not conform to these instructions, you will be notified by letter of the nature of the deficiencies. If these deficiencies are not cured within 120 days of the date of the letter, the complaint will be deemed withdrawn, the Clerk's file will be closed, and no fees will be assessed against you.
8. If you are given permission to proceed in forma pauperis, the Clerk will prepare and issue a copy of the summons for each defendant. The copies of summonses and the copies of the complaint which you have submitted will be forwarded by the Clerk to the United States

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Marshal, who is responsible for service. The Marshal has USM-285 forms you must complete so that the Marshal can locate and serve each defendant. If the forms are sent to you, you must complete them in full and return the forms to the Marshal.

**QUESTIONS TO BE ANSWERED**

1. Jurisdiction is asserted pursuant to (CHECK ONE)

☒ 1

42 U.S.C. § 1983 (applies to state prisoners)

☐ 2

Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics,  
403 U.S. 388 (1971) and 28 U.S.C. § 1331 (applies to federal prisoners)

If you want to assert jurisdiction under different or additional statutes, list these below:

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2. Previously Dismissed Federal Civil Actions or Appeals

If you are proceeding in forma pauperis, list each civil action or appeal you have brought in a federal court while you were incarcerated or detained in any facility, that was dismissed as frivolous or malicious, or for failure to state a claim upon which relief may be granted. Please note that a prisoner who has on three or more prior occasions, while detained in any facility, brought an action or appeal in a federal court that was dismissed as frivolous or malicious, or for failure to state a claim upon which relief may be granted, will be denied in forma pauperis status unless that prisoner is under imminent danger of serious physical injury. See 28 U.S.C. § 1915(g).

- a. Parties to previous lawsuit:

Plaintiff(s): \_\_\_\_\_

\_\_\_\_\_

Defendant(s): \_\_\_\_\_

\_\_\_\_\_

- b. Court and docket number: \_\_\_\_\_

- c. Grounds for dismissal: ( ) frivolous ( ) malicious ( ) failure to state a claim upon  
which relief may be granted

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- d. Approximate date of filing lawsuit: 6/23/08
- e. Approximate date of disposition: \_\_\_\_\_

If there is more than one civil action or appeal, describe the additional civil actions or appeals using this same format on separate sheets.

3. Place of Present Confinement? Northern State Prison

4. Parties

(In item (a) below, place your name in the first blank and place your present address in the second blank. Do the same for additional plaintiffs, if any.)

a. Name of plaintiff: Timothy J. Miller

Address: 168 Frontage Rd  
Newark, NJ

Inmate #: 483845

b. First defendant – name: Jason Asterbury Badge #70

Official position: \_\_\_\_\_

Place of employment: Trenton Police Department

How is this person involved in the case?

(i.e., what are you alleging that this person did or did not do that violated your constitutional rights?)

Asterbury used excessive force by repeatedly  
punching me in the face. Sprayed mace in my  
eyes and mouth after I submitted to the taser  
chun.

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c. Second defendant – name: Tara Stefano

Official position: Police Officer

Place of employment: Trenton Police Dept.

How is this person involved in the case?

(i.e., what are you alleging that this person did or did not do that violated your constitutional rights?)

Officer Stefano Kicked me about my body and then placed her foot on face and neck.

d. If there are more than two defendants, attach a separate sheet. For each defendant specify: (1) name, (2) official position, (3) place of employment, and (4) involvement of the defendant.

5. I previously have sought informal or formal relief from the appropriate administrative officials regarding the acts complained of in the Statement of Claims on page 6.

     Yes      ✓   No

If your answer is "Yes," briefly describe the steps taken, including how relief was sought, from whom you sought relief, and the results.

If your answer is "No," briefly explain why administrative remedies were not exhausted.

I was not aware that I could take such action

d. Third defendant Peter Grehan #240  
Official Position Police Officer  
Place of Employment Trenton Police Dept

Officer Grehan was one of the men  
that used excessive force by kicking  
and punching me in the face and  
body.

e. Fourth defendant Brian Suschke #28  
Official Position Police Officer  
Place of Employment Trenton Police Dept.

Officer Suschke was one of the men  
that used excessive force by kicking  
and punching me about my body.

F Fifth defendant Nelson Cartagena  
Official Position Police Officer #59  
Place of Employment Trenton Police Dept

Officer Cartagena was one of the men  
that used excessive force by kicking  
and punching me about my body.



g. Sixth defendant Ryan Woodhead  
Official position Police Officer #84  
Place of Employment Trenton Police Dept

Officer Woodhead was one of the men  
that used excessive force by kicking  
and punching me about my body.

6.

### Statement of Claims

On June 23<sup>rd</sup> 2006, I was brutality beaten by several members of the Trenton Police Tact Unit. The officers that responded to the call and that are seen on the video participating in the beating are Jason Atsbury Badge #70, Nelson Cartagena Badge #59, Peter Grehan Badge # 40, Tara Stefano Badge #83, Brian Suschke Badge #28, and Ryan Woodhead Badge #84.

#### Issue #1

The officers involved in my arrest used excessive force to remove what they allege was a gun cocked and ready to fire from my person. During the take down, I was aware that Jason Asterbury, badge # 70 punched me numerous times in the face and head. Tara Stefano badge # 83 kicked me several times in my stomach and legs. The remaining officers all began to kick and beat me about the face and body so much that I lost count of the number of officers throwing the kicks and punches. At one point the bottom of a boot was pressed up against the side of my face and neck. The officers named above along with their fellow officers continued the beating and then they maced me several times in the eyes and mouth before they cuffed me and dragged me out of the bar..

#### Issue #2

When they finally got the handcuffs on me, I was taken outside and made to lie face down on the hood of a hot running police car for nearly 1 hour according to the video tapes from the bar and the time that I was signed into the hospital. I was barely conscious and could not see out of my eyes because of the mace and the lacerations which had blood squirting out all over my face.

#### Issue #3

When I finally got to the Trenton City lockup, an officer from internal affairs came and took my picture to memorialize my face, however, when I requested the photo, no one could verify that any such photo exist. I was not given the recommended dressings and treatment as prescribed by the ER physician. My mother brought me clean gauze to help keep my eye from becoming infected, however they would not allow me to have them.

I would like for the court to award me financial restitution as I now have an unsightly scar on my face and other emotional damages. I also would ask the courts to include compensation for the pain and suffering that my family and I endured because of the incident.

(State here as briefly as possible the facts of your case. Describe how each defendant violated your rights, giving dates and places. If you do not specify how each defendant violated your rights and the date(s) and place of the violations, your complaint may be dismissed. Include also the names of other persons who are involved, including dates and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Use as much space as you need. Attach a separate sheet if necessary.)

[illegible]

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7. Relief

(State briefly exactly what you want the Court to do for you. Make no legal arguments. Cite no cases or statutes.)

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8. Do you request a jury or non-jury trial? (Check only one)

( ☒ ) Jury Trial

( ☐ ) Non-Jury Trial

I declare under penalty of perjury that the foregoing is true and correct.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Signature of plaintiff<sup>1</sup>

<sup>1</sup> EACH PLAINTIFF NAMED IN THE COMPLAINT MUST SIGN THE COMPLAINT HERE. ADD ADDITIONAL LINES IF THERE IS MORE THAN ONE PLAINTIFF. REMEMBER, EACH PLAINTIFF MUST SIGN THE COMPLAINT.